

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN MARK KELTY,

Petitioner,

Case No. 19-cv-12774
Hon. Matthew F. Leitman

v.

GARY MINIARD,

Respondent.

/

ORDER GRANTING PETITIONER'S MOTION TO AMEND (ECF No. 11)

Petitioner Steven Mark Kelty is a state prisoner in the custody of the Michigan Department of Corrections. On September 23, 2019, Kelty filed a *pro se* petition for a writ of habeas corpus in this Court pursuant to 28 U.S.C. § 2254. (*See* Pet., ECF No. 1.) Currently before the Court is Kelty's motion to amend his habeas petition. (*See* Mot., ECF No. 11.) Kelty seeks to raise a claim that the state trial court violated his right to present a defense because he was not allowed to argue that there was an intervening, superseding cause of the victim's death. (*See id.*)

Respondent Gary Miniard opposes the amendment. (*See* Resp., ECF No. 17.) Miniard argues that Kelty's amendment would be futile because the proposed claim is barred on procedural grounds and is meritless. (*See id.*) Rather than address Miniard's arguments at this point in the proceeding, the Court will exercise its

discretion, grant Kelty's motion to amend, and address Miniard's defenses to Kelty's new claim when it rules on the amended petition. *See* Rule 11, Rules Governing 28 U.S.C. § 2254 Cases; Fed. R. Civ. P. 15(a). Miniard addressed the substance of Kelty's new claim in response to the motion to amend, so Miniard need not file a supplemental answer.

Accordingly, for all of the reasons stated above, Kelty's motion to amend (ECF No. 11) is **GRANTED**.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: August 18, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 18, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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